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In The
SUPREME COURT OF THE UNITED STATES

October Term, 1963

No. 574

Robert M. Williamson, Jr., Marjorie Williamson, Individually and as Independent Executors of the Estate of Effie Gilmer Williamson,

Petitioners,

v.

The Honorable Paul Peurifoy, Judge of the 95th District Court, in Dallas County, Texas

Respondent.

MOTION FOR LEAVE TO FILE THE PETITION FOR REHEARING

Robert M. Williamson, Jr.,
Marjorie Williamson
Individually and as Independent Executors
of the Estate of Effie Gilmer Williamson
pro se

4923 Gaston Ave.,
Dallas, Texas

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Respondent

MOTION FOR LEAVE TO FILE THE PETITION FOR REHEARING

To the Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States.

Petitioners respectfully move the Court to grant them leave to file the petition for rehearing in the above numbered cause on the following grounds:

I

The petitions for rehearing (40 printed copies) were mailed to the office of the Clerk of this Court on February 20, 1964, registered air-mail. Every check with the post office before and after the petitions were mailed resulted in the assurances they would be delivered February 21, 1964, or should have been delivered February 21, 1964.

The letter from the Clerk of this Court stating the Petitions had not been delivered on February 21, 1964, was dated February 24, 1964, mailed air mail, and was received by petitioners around 10:30 A.M. in a residential area in Dallas, Texas, on February 25, 1964, one day air mail from Washington, D. C.

Since one day air mail from Dallas, Texas, to Washington, D. C., is routine, on the ground that some very unusual circumstance prevented the petitions from arriving on February 21, 1964, Petitioners move this Court to permit the petitions for rehearing to be filed.

II

The evidence necessary to prove facts stated in the petition for Rehearing was not available prior to January 29, February 1, 1964. The rewriting of the petition required additional time after facts were discovered for which Petitioners should have asked but should not ask for. The late discovery of evidence required diligence beyond that which could be expected by any Court for Petitioners to get the petitions in on time. Since Petitioners did not ask for extra time needed, Petitioners showed such diligence that this Court should grant them leave to file the petitions for rehearing, the delay in the delivery of which has been inexplicable.

"Introduction of additional evidence on appeal may be permitted only in exceptional cases where the interests of justice require and the party presenting evidence has exercised due diligence to present it at the earliest possible moment."
Korthinas v. Marchos C.A. Va. 1950, 184F 2d. 716

The postmarks January 28, 1964, and January 31, 1964, are in the Appendix showing dates data concerning evidence were mailed to Petitioners. (not registered)

Petitioners also have a postmark February 8, 1964, showing when a part of copy was returned which had been taken to a typographer on February 5, 1964.

The evidence Petitioners learned of on February 1, 1964, four days later was in a petition almost totally rewritten after the evidence was received.

The entire Petition was not ready when the typesetting had to begin to be sure the Petition would be in on time. The great diligence which Petitioners exercised and the constant rewriting owing to discovery of additional evidence, since Petitioners asked for no additional time needed under the circumstances should result in this

Court granting Petitioners leave to file the petition for rehearing.

III

The printing of the petition contracted for on Friday, February 14, 1964, to be completed on Monday, February 17, 1964, could not be done in the time promised because the Dallas Blue Print Company, which had contracted to do the printing burned on February 16, 1964, preventing Petitioners from mailing the petitions for rehearing on February 18, 1964.

On Friday, February 14, 1964, the Dallas Blue Print Company contracted to print the petitions. At about 1:00 P.M. on that date some photos of material were made, paper was selected and a dummy book was to be set up. The work was to begin at 8:00 A.M. Monday, February 17, 1964, to be completed on February 17, 1964. Petitioners could mail the petitions on February 18, 1964.

On Sunday, February 16, 1964, the Dallas Blue Print Company burned.

On Monday, February 17, 1964, instead of having printed petitions, Petitioners had to find an offset printer to print the petitions. A day and a half to two days were lost. Dallas is a

large city and work has to be contracted for in advance. The Dallas Blue Print Company fire, which was beyond Petitioners' control, prevented Petitioners from mailing the petitions on February 18, 1964, when they would have been mailed.

A copy of the affidavit showing when the petitions were to be completed is in the Appendix to this petition.

The three grounds which Petitioners have presented herein were not the fault of Petitioners who exercised great diligence. The fact that the petitions were not completely printed on Monday, February 17, 1964, was owing to a circumstance beyond Petitioners' control.

Respectfully submitted,

Robert M. Williamson, Jr.,
Individually, pro se

February , 1964

Marjorie Williamson,
Individually pro se

4923 Gaston Ave.
Dallas, Texas

Robert M. Williamson, Jr.

Marjorie Williamson
Independent Executors of the Estate
of Effie Gilmer Williamson, pro se

THE STATE OF TEXAS.

COUNTY OF DALLAS

BEFORE ME, Jo Nell Weir, Notary Public

in and for said County, State of Texas, on this day personally appeared ERNEST B. WILLIAMS to me, well known, and who, after being by me duly sworn, deposes and says that at about 1:00 P.M., February 14, 1964, I took some photographs for Mr. and Miss Williamson, to be printed on Monday February 17, 1964. The printing contracted for was to be started at 8:00 A.M., Monday morning, February 17, 1964 and was to be completed Monday, February 17, 1964 - fifty copies of a small booklet. Sunday, February 16, 1964 the Dallas Blue Print Company, where I worked, burned.

Ernest B. Williams

SUBSCRIBED AND SWORN TO BEFORE ME this 26th day of February, A. D. 19 64

Jo Nell Weir

(L. S.)

Dallas County, Texas

Appendix

THE STATE OF TEXAS.

COUNTY OF DALLAS

BEFORE ME, Jo Nell Weir,

Notary Public

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Ernest B. Williams

SUBSCRIBED AND SWORN TO BEFORE ME this 26th day of February, A. D. 19 64

Jo Nell Weir

(L. S.)

Dallas County, Texas

Appendix